IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI

JO LEVITT,	)	
	)	
Plaintiff,	)	
	)	**Case No. 4:06-cv-00818-DW**
v.	)	
	)	
MERCK SHARP & DOHME CORP.,	)	
	)	
Defendant.	)	

DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO THE STATUTE OF LIMITATIONS

Merck Sharp & Dohme Corp. moves for judgment on the pleadings pursuant to Missouri's five-year statute of limitations. *See* Mo. Rev. Stat. § 516.120(4). Plaintiff Jo Levitt alleges that Vioxx caused her to experience cardiovascular injuries on March 10 and May 26, 2000. There is no dispute that Plaintiff's alleged cardiovascular injuries occurred and were treated in the spring of 2000. The *theory* that Vioxx might cause cardiovascular injury was "ascertainable" before the fall of 2001. But this lawsuit was not filed until September 29, 2006, more than five years after her cause of action accrued. Merck is entitled to judgment on the pleadings.

Dated: February 13, 2017

Respectfully submitted,

By: */s/ Paul E. Boehm*

Stephen D. Raber (*pro hac vice*)
Paul E. Boehm (*pro hac vice*)
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, NW
Washington, DC 20005
Phone: 202-434-5000
Fax: 202-434-5029

—and—

Stephen G. Strauss (MO #45018)
BRYAN CAVE LLP
211 N. Broadway, Suite 3600
St. Louis, Missouri 63102
Phone: 314-259-2000
Fax: 314-259-2020

Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 13, 2017, the foregoing was filed via the Court's e-filing system to be served upon all Counsel of Record:

Daniel A. Thomas
HUMPHREY, FARRINGTON, & MCCLAIN PC
221 W. Lexington, Suite 400
Independence, MO 64051
Phone: 816-836-5050

Counsel for Plaintiff

/s/ Paul E. Boehm